

1 **UNITED STATES DISTRICT COURT**
2 **FOR THE**
3 **EASTERN DISTRICT OF PENNSYLVANIA**

4 DEBRA A. WILLIAMS,

5 Plaintiff

6 v.

7 STERLING CREDIT CORPORATION,

8 Defendant

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) **Case No.:**

)
) **COMPLAINT AND DEMAND FOR**
) **JURY TRIAL**

)
) **(Unlawful Debt Collection Practices)**

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10 **COMPLAINT**

11 DEBRA A. WILLIAMS (“Plaintiff”), by and through her attorneys, KIMMEL &
12 SILVERMAN, P.C., alleges the following against STERLING CREDIT CORPORATION
13 (“Defendant”):

14
15 **INTRODUCTION**

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17 1. Plaintiff’s Complaint is based on the Fair Debt Collection Practices Act, 15
18 U.S.C. § 1692 *et seq.* (“FDCPA”).

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20 **JURISDICTION AND VENUE**

21 2. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d), which states
22 that such actions may be brought and heard before “any appropriate United States district court
23 without regard to the amount in controversy,” and 28 U.S.C. § 1331 grants this court original
24 jurisdiction of all civil actions arising under the laws of the United States.
25

1 continuous calls to Plaintiff's cellular telephone.

2 14. Plaintiff received telephone calls and voicemail messages from Defendant on a
3 number of occasions from the following phone number: (215) 793-4600, which the undersigned
4 has confirmed is a telephone number belonging to Defendant.

5 15. It was upsetting and aggravating for Plaintiff to receive continuous collection
6 calls from Defendant.

7 16. In September 2013, Plaintiff spoke with Defendant three (3) times in the same
8 week, as Defendant kept calling Plaintiff to pressure her into setting up a payment plan.
9

10 17. Each time Plaintiff spoke with Defendant, she explained that she had been
11 unemployed for almost one (1) year, that she was not able to find any employment, and that she
12 had to pay rent.

13 18. Defendant refused to stop calling Plaintiff, despite knowing that she did not have
14 the ability to pay the rent and that her financial situation had not changed.

15 19. Defendant insisted that she establish a payment plan, claiming that she could pay
16 at least \$5.00.

17 20. When Plaintiff told Defendant she could not pay the alleged debt, Defendant
18 threatened to report her to the credit bureaus and claimed that it could garnish her wages.

19 21. In Pennsylvania, not only is a debt collector unable to garnish a person's wages,
20 but it cannot garnish a person's unemployment compensation benefits.

21 22. Therefore, when Defendant threatened to garnish her wages, it did not intend to
22 take the threatened action and legally could not take the threatened action.

23 23. Furthermore, upon learning that Plaintiff did not have the financial means to pay
24 the alleged debt, Defendant failed to update its records to stop the calls to Plaintiff.
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1 24. Also, Defendant was not in possession of any information to contradict Plaintiff's
2 statements that she did not have the financial means to pay the debt.

3 25. Rather, Defendant persisted in calling Plaintiff to collect a debt which it knew
4 she could not pay.

5 26. Furthermore, in its communications with Plaintiff, Defendant claimed that it had
6 obtained a judgment against her.

7 27. Upon information and belief, Defendant had not obtained a judgment against
8 Plaintiff; rather, it made such deceptive statement believing that such statements may cause
9 Plaintiff to make payment on the alleged debt.
10

11 28. Lastly, when speaking with Plaintiff, Defendant would make harassing and
12 demeaning statements to Plaintiff, such as "I am sure you feel bad for not paying your debt."

13 29. Most recently, Defendant contacted Plaintiff on December 10, 2013.

14 30. Defendant's pattern of repeated, successive calls to Plaintiff was done with the
15 intent and purpose of harassing, annoying and abusing Plaintiff.

16 31. Defendant's actions in attempting to collect the alleged debt were harassing,
17 abusive and highly deceptive.
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19
20 **DEFENDANT VIOLATED THE**
21 **FAIR DEBT COLLECTION PRACTICES ACT**

22 32. In its actions to collect a disputed debt, Defendant violated the FDCPA in one or
23 more of the following ways:

24 **COUNT I**

25 a. A debt collector violates § 1692d of the FDCPA by engaging in conduct

1 the natural consequence of which is to harass, oppress, or abuse any
2 person in connection with the collection of a debt.

3 b. A debt collector violates § 1692d(5) of the FDCPA by causing a telephone
4 to ring or engaging any person in telephone conversation repeatedly or
5 continuously with intent to annoy, abuse, or harass any person at the called
6 number.

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8 c. Here, Defendant violated §§ 1692d and 1692d(5) of the FDCPA when it
9 called Plaintiff, on average, several times a week, having the intent to
10 annoy, abuse and harass him, as well as continuing to call Plaintiff after
11 having been told that she did not have the financial means to pay the
12 alleged debt.

13 **COUNT II**

14 a. A debt collector violates § 1692e of the FDCPA by using false, deceptive
15 or misleading representations or means in connection with the collection
16 of any debt.

17 b. A debt collector violates § 1692e(4) of the FDCPA by representing or
18 implicating that nonpayment of any debt will result in the arrest or
19 imprisonment of any person or the seizure, garnishment, attachment, or
20 sale of any property or wages of any person unless such action is lawful
21 and the debt collector or creditor intends to take such action.

22
23 c. A debt collector violates § 1692e(5) of the FDCPA by threatening to take
24 any action that cannot legally be taken or that is not intended to be taken.

25 d. Section 1692e(10) of the FDCPA prohibits debt collectors from using any

1 false representations or deceptive means to collect or attempt to collect
2 any debt or to obtain information concerning a consumer.

- 3 e. Here, Defendant violated §§ 1692e, 1692e(4), 1692e(5), and 1692e(10) of
4 the FDCPA by threatening to garnish Plaintiff's wages, when it did not
5 intend to take the action and could not legally take the threatened action,
6 as well as falsely claiming it had obtained a judgment against her when it
7 had not done so.

8
9 **COUNT III**

- 10 a. A debt collector violates § 1692f of the FDCPA by using unfair or
11 unconscionable means to collect or attempt to collect any debt.
- 12 b. Here, Defendant violated § 1692f of the FDCPA engaging in other unfair
13 and unconscionable debt collection practices, including failing to update
14 its records to stop the collection calls to Plaintiff, after having been
15 Plaintiff could not pay the alleged debt.

16 WHEREFORE, Plaintiff, DEBRA A. WILLIAMS, respectfully prays for a judgment as
17 follows:

- 18 a. All actual damages suffered pursuant to 15 U.S.C. § 1692k(a)(1);
19 b. Statutory damages of \$1,000.00 for the violation of the FDCPA pursuant
20 to 15 U.S.C. § 1692k(a)(2)(A);
21 c. All reasonable attorneys' fees, witness fees, court costs and other litigation
22 costs incurred by Plaintiff pursuant to 15 U.S.C. § 1693k(a)(3); and
23 d. Any other relief deemed appropriate by this Honorable Court.
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25

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, DEBRA A. WILLIAMS, demands a jury trial in
this case.

RESPECTFULLY SUBMITTED,

DATED: July 25, 2014

KIMMEL & SILVERMAN, P.C.

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